THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 9645 of 2000

DATE: 08-10-2007

Between :

P.Vijaya Kumar

… Petitioner

And

Government of Andhra Pradesh,
Rep., by Principal Secretary,
Revenue Department,
Hyderabad and 4 others.

… Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 9645 of 2000

ORDER:

The petitioner herein claims title in respect of Ac.4.07 guntas of land situated in Sy.No.767 of Suryapet, Nalgonda District. It is stated that the said land was originally purchased by his father by name P.Pullaiah and the same being the Joint Family Property was divided among his six sons including the petitioner and respondents 4 and 5 herein. According to the petitioner as per the family division he got Ac.0.27 guntas towards his share, whereas respondents 4 and 5 got Ac.0.28 guntas each along with three other brothers who also got Ac.0.28 guntas each. However, suppressing the above facts, the fourth respondent made an application before the second respondent-Mandal Revenue Officer for transfer of the entire extent of Ac.4.07 guntas of land in his favour. Without conducting any enquiry as required under the provisions of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short 'ROR Act') the second respondent passed an order transferring the entire Ac.4.07 guntas of land in the name of the fourth respondent. As a matter of fact, by the date of the order passed in the year 1995, the original pattadar, the father of the petitioner and respondents 4 and 5 were alive. Challenging the said order, the fifth respondent herein along with their father preferred an appeal before the Revenue Divisional Officer Nalgonda. The said appeal was allowed by order dated 29-07-1995 thereby canceling the entries effected in favour of the fourth respondent. Consequently, the

matter was remanded to the second respondent for fresh enquiry following the procedure prescribed under the ROR Act and the Rules made thereunder. Pursuant thereto, notices were issued to all the parties concerned and original pattadar P.Pullaiah deposed that the said land to an extent of Ac.4.07 guntas has to be divided equally among his sons. Accordingly, the second respondent passed an order dated
05-10-1995 making necessary corrections in the revenue records and pattadar passbooks and title deeds were issued to all the six sons of P.Pullaiah including the petitioner and respondents 4 and 5 herein. The said order dated 05-10-1995 has become final. While so, at the instance of the fourth respondent, the second respondent passed an order dated 02-04-2000 purportedly in terms of an order passed by the Joint Collector on the basis of a compromise arrived between the parties thereby directing the entire land of Ac.4.07 guntas shall stand in the name of the respondents 4 and 5 herein to an extent of Ac.3.27 guntas and Ac.0.20 guntas respectively. The said order is under challenge in this writ petition.

I have heard the learned counsel for both the parties and perused the material on record.

The fact that the order passed by the Revenue Divisional Officer dated 29-07-1995 and the consequential proceedings of the Mandal Revenue Officer dated 5-10-1995 have become final is not in dispute. However, it appears that the fourth respondent made a revision petition under Section 9 of the ROR Act before the Joint Collector against the order of Revenue Divisional Officer dated
29-07-1995. The said revision petition was taken on file and while it was coming up for hearing, both the parties appeared to have filed a compromise petition requesting to close the revision petition as settled out of the Court. Accordingly the Joint Collector passed an order dated 23-09-1996 dismissing the revision petition as settled out of court.

While referring to the said order dated 23-09-1996 the second respondent-Mandal Revenue Officer passed the impugned order dated 02-04-2000 directing mutation of revenue records. It is contended by the learned Counsel for the petitioner that both the orders dated 23.9.1996 and 2.4.2000 which were passed without notice to the petitioner are arbitrary, illegal apart from being in violation of principles of natural justice. Admittedly, the petitioner herein was not made a party to the proceedings dated 23.9.1996 before the Joint Collector filed under Section 9 of the ROR Act. Though the father of the petitioner and the respondents 4 and 5 were parties and it was recorded that all of them filed a compromise petition representing that the matter was settled out of the Court, the order dated 23.9.1996 does not contain the terms of the said compromise much less there was any order that the Revision Petition was disposed of in terms of the said compromise. On the other hand, the Revision Petition was dismissed by order dated 23.9.1996. If that be so, the order of the Revenue Divisional Officer, dated 29.7.1995 should be deemed to have become final. In the circumstances, as rightly contended by the learned counsel for the petitioner that the 3rd respondent – Revenue Divisional Officer - committed an error in passing the order dated 9.2.2000 directing the 2nd respondent – Mandal Revenue Officer to implement compromise among the parties allotting the share of Ac.3.27 guntas in favour of the 4th respondent herein and 27 guntas in favour of the 5th respondent herein. The said order dated 9.2.2000 is beyond the powers conferred under the provisions of the ROR Act apart from being in violation of principles of natural justice.

As noticed above, the Joint Collector, while dismissing the Revision Petition by order dated 23.9.2006 did not record the compromise between the parties and the terms of compromise said to have been entered into between the parties was not made part of the

record. Hence, the order of the 3rd respondent – Revenue Divisional Officer, dated 29.7.1995 which attained finality ought not to have been altered.

For the aforesaid reasons, the impugned order dated 9.2.2000 as well as the consequential order dated 2.4.2000 are hereby set aside and the Writ Petition is allowed. No costs.

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G. ROHINI, J

Date: 08-10-2007
KLP